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IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

COURTNEY DENNIS, on behalf of herself and all others similarly situated,

Plaintiff,

vs.

RALPH LAUREN CORPORATION, a Delaware corporation, RALPH LAUREN RETAIL, INC., a Delaware corporation, and DOES 1- 20, inclusive,

Defendants.

Case No. 3:16-cv-01056-WGH-BGS

FIRST AMENDED CLASS ACTION COMPLAINT

1. **Violation of California's Unfair Competition Laws ("UCL"); California Business & Professions Code Sections 17200, *et seq.***
2. **Violation of California's False Advertising Laws ("FAL"); California Business & Professions Code Sections 17500, *et seq.***
3. **Violations of California Consumer Legal Remedies Act ("CLRA"); Civ. Code § 1750, *et seq.***
4. **Violations of the Consumer Protection Laws on Behalf of Classes in States with Similar Laws**

[DEMAND FOR JURY TRIAL]

Plaintiff COURTNEY DENNIS brings this action on behalf of herself and all others similarly situated against Defendant RALPH LAUREN CORPORATION and Defendant RALPH LAUREN RETAIL, INC. (collectively "Defendants"), and states:

I. NATURE OF ACTION

1. This is a class action regarding Defendants' false and misleading advertisement of "market" prices, and corresponding phantom "savings," on clothing and fashion apparel sold in its retail outlet stores. During the Class Period (defined below), Defendants advertised false price discounts for merchandise sold throughout their retail outlet stores.

2. During the Class Period, Defendants continually misled consumers by advertising clothing and fashion apparel at discounted, "savings" prices. Defendants would compare the "sale" prices to false "market" prices, which were misrepresented as the "market" retail prices from which the "savings" was discounted. The advertised discounts were nothing more than mere phantom markdowns because the represented market prices were artificially inflated and were not the original or "market" prices for clothing and fashion apparel sold at Defendants' retail outlet stores. In addition, the represented "market" prices were not the prevailing marketing retail prices within three months next immediately preceding the publication of the advertised former prices, as required by California law.

3. Defendants convey their deceptive pricing scheme to consumers through promotional materials, in-store displays, and print advertisements. For example, in Defendants' retail outlet stores, the pricing scheme is prominently displayed, advertising deep discounts, including "SALE 40% off" various items throughout the store.

4. The purported "market prices" never existed and/or did not constitute the prevailing market retail prices for such products within the three months immediately preceding the publication of the sales tag. The difference between the "sale" and "regular" prices is a false savings percentage used to lure consumers into purchasing products they believe are significantly discounted.

5. Through their false and misleading marketing, advertising and pricing scheme, Defendants violated, and continue to violate California law prohibiting advertising goods for sale as discounted from former prices which are false, and prohibiting misleading statements about the existence and amount of price reductions. Specifically, Defendants violated, and continue to violate, California's Business & Professions Code §§ 17200, *et seq.* (the "UCL"), California's Business & Professions Code §§ 17500, *et seq.* (the "FAL"), the California Consumers' Legal Remedies Act, California Civil Code §§ 1750, *et seq.* (the "CLRA"), and the Federal Trade Commission Act ("FTCA"), which prohibits "unfair or deceptive acts or practices in or affecting commerce" (15 U.S.C. § 45(a)(1)) and false advertisements. 15 U.S.C. § 52(a).

6. Plaintiff brings this action on behalf of herself and all other similarly situated consumers who have purchased from Defendants' retail outlet stores, one or more items of clothing and fashion apparel that was or were deceptively represented as discounted from false former prices. Plaintiff brings this action in order to halt the dissemination of this false, misleading, and deceptive price scheme; correct the false and misleading perception it has created in the minds of consumers; and to obtain redress for those who have purchased these products. Plaintiff seeks restitution and other equitable remedies, including an injunction under the UCL and FAL; and restitution, damages, and an injunction under the CLRA.

II. JURISDICTION AND VENUE

7. This Court has original jurisdiction of this Action pursuant to the Class Action Fairness Act, 28 U.S.C §1332 (d)(2). The matter in controversy, exclusive of interest and costs, exceeds the sum or value of $5,000,000 and at least some members of the proposed Class have a different citizenship from Defendants.

8. The Southern District of California has personal jurisdiction over the Defendants named in this action because Defendants are corporations or other business entities authorized to conduct and do conduct business in the State of California.

Defendants also are registered with the California Secretary of State to do sufficient business with sufficient minimum contacts in California. Defendants intentionally avail themselves of the California market through the ownership and operation of numerous Ralph Lauren outlet and retail stores within the State of California.

9. Venue is proper under 18 U.S.C. §1965(a) because Defendants transact substantial business in this District, and a substantial part of the events giving rise to Plaintiff's claims arose in this District.

III. PARTIES

Plaintiff

10. COURTNEY DENNIS resides in San Diego, California. Plaintiff, in reliance on Defendants' false and deceptive advertising, marketing and "discount" pricing schemes, purchased a children's polo shirt for her daughter for $44.99 (with sales tax, $48.59) on or around November 19, 2015, at a Ralph Lauren Polo Factory Store located in Carlsbad, California. The shirt was advertised as having an original, or "market," price of $74.99. That price was purportedly discounted and represented to Plaintiff as "40% off" according to the price tag and related signage. However, this product was not offered for sale at $74.99 at Defendants' retail outlet store, nor was it offered at that price within the 90-day time period immediately preceding Plaintiff's purchase. Therefore, Ms. Dennis was damaged by her purchase of the product.

Defendant

11. Plaintiff is informed and believes, and upon such information and belief alleges, Defendant Ralph Lauren Corporation is a Delaware corporation with its principal executive offices in New York, New York.

12. Plaintiff is informed and believes, and upon such information and belief alleges, Defendant Ralph Lauren Retail, Inc. is a Delaware corporation with its principal executive offices in New York, New York.

13. Defendants operate Ralph Lauren and related outlet Ralph Lauren Polo

Factory stores as well as the ralphlauren.com website, and advertise, market, distribute, and/or sell clothing and clothing accessories in California and throughout the United States.

14. Plaintiff does not know the true names or capacities of the persons or entities sued herein as DOES 1-20, inclusive, and therefore sues such Defendants by such fictitious names. Plaintiff is informed and believes, and upon such information and belief alleges, that each of the DOE Defendants is in some manner legally responsible for the damages suffered by Plaintiff and the Class members as alleged herein. Plaintiff will amend this Complaint to set forth the true names and capacities of these Defendants when they have been ascertained, along with appropriate charging allegations, as may be necessary.

IV. FACTUAL BACKGROUND

15. On or around November 19, 2015, Plaintiff went shopping at the Ralph Lauren Polo Factory store in Carlsbad, California to purchase clothing and related apparel for herself and her family. Upon examining a particular children's polo shirt, she observed signs that declared "SALE" with the shirt was advertised at "40% off." Plaintiff observed signage within the store and the price tag on the shirt which represented that the shirt was "40% off." Believing that she was receiving a significant value by purchasing polo shirt for $44.99 that had an original or "market" price of $74.99, she decided to purchase the shirt and proceeded to the cash register where she did in fact purchase the shirt. The receipt Plaintiff was then handed bolstered the impression of an alleged bargain, stating that the item "Price" was "[$]74.99," but due to the "Promo Price ([$]30.00)" discount, the shirt was $44.99.

16. Specifically, relying upon Defendants' misrepresentations and false and deceptive advertising, Plaintiff purchased the shirt for $44.66 (with sales tax, $48.59). The price tag indicated the original or "market" price of the shirt was "$74.99"; the shirts were being offered at a discount, described as 40% off. These purported "market" prices and corresponding price "discounts" and savings were false and misleading, as the prevailing retail price for the shirt during the three months immediately prior to Plaintiff's purchase was not the $74.99 "market" price advertised by Defendants.

17. Plaintiff's counsel tracked the pricing on various consumer goods at various retail stores, including Polo outlet store for several months preceding and subsequent to Ms. Dennis' purchase. Plaintiff's counsel's investigation revealed that the "market" price ($74.99) of the girl's Polo shirt Ms. Dennis purchased was never the prevailing market price at the Polo outlet store within the 90 days preceding Ms. Dennis' purchase, nor was the shirt offered for sale at the "market" price at any time during the investigation at the Polo outlet store. Instead, Defendant continuously offered the shirt at discounted prices, including at $44.99; "40% off," the price on the product's price tag. Plaintiffs' counsel's investigation also revealed that this was a pervasive practice at the Polo Outlet stores. At least several other items remained continuously discounted from their "market price," or they were not offered for sale at their market price for any substantial period of time, including, both men's and women's Polo shirts and men's tee shirts. The Polo outlet store engages in a systematic scheme to continuously discount its merchandise without ever offering the merchandise for sale at its "market" prices at the outlet store.

18. Plaintiff's counsel's investigation revealed that new Polo products and seasonal merchandise are primarily available only at the Polo retail store, high-end department stores and related online stores. The merchandise sold at the Polo outlet stores is primarily out-of-season, made for distribution through the Polo outlet store or includes their lesser-quality lines of product. Plaintiff's investigation revealed that the Polo shirt purchased by Plaintiff was not offered at its full retail price within the 90 days prior to her purchasing it within the relevant market.

19. Plaintiff would not have purchased the shirt without the misrepresentations made by Defendants. As a result, Plaintiff has been personally victimized by and suffered economic injury as a direct result of Defendants' unlawful, unfair and fraudulent conduct.

20. Defendants know that their comparative price advertising is false, deceptive, misleading and unlawful under California law.

21. Defendants fraudulently concealed from and intentionally failed to disclose to

Plaintiff and other members of the proposed class the truth about its advertised price and former prices.

22. At all relevant times, Defendants have been under a duty to Plaintiff and the proposed class to disclose the truth about their false discounts.

23. Plaintiff relied upon Defendants' artificially inflated "market" price and false discounts when purchasing the polo shirt at Defendants' Polo Factory store. Plaintiff would not have made such purchases but for Defendants' representation of the fabricated original "market" prices and false discounts.

24. Plaintiff and the Class reasonably and justifiably acted and relied on the substantial price differences that Defendants advertised, and made purchases believing that they were receiving a substantial discount on an item of greater value than it actually was. Plaintiff, like other class members, was lured in, relied on, and damaged by these pricing schemes that Defendants carried out.

25. Defendants intentionally concealed and failed to disclose material facts regarding the truth about false former price advertising in order to provoke Plaintiff and the proposed class to purchase Ralph Lauren branded products in its Polo Factory store and/or retail outlet stores and/or on its Internet website.

V. CLASS ALLEGATIONS

26. Plaintiff brings this action on behalf of herself and all other similarly situated Class members pursuant to Rule 23(a), (b)(2) and (b)(3) of the Federal Rules of Civil Procedure and seeks certification of the following Class against (the "Nationwide Class") against Defendants:

27. All persons who purchased one or more items from Defendants offered at a purported discount from an "original," "regular," or "market" price any time between [insert date] to the date of certification (the "Class Period").

28. Plaintiff also brings this action individually and as a Class action pursuant to Federal Rule of Civil Procedure 23 on behalf of all persons located within the state of

California (the "California Class"):

29. All persons residing in the State of California who purchased one or more items from Defendant offered at a purported discount from an "original" or "regular" price any time between [insert date] to the date of certification.

30. Plaintiff also brings this action on behalf of all persons located within states with similar consumer protection laws (collectively with the Nationwide and California Classes, the "Classes").

31. Excluded from the Class are Defendants and their past and present officers, directors, employees, agents, and affiliates; Class counsel and their employees; and any judge who presides over this action as well as his/her staff. Plaintiff reserves the right to expand, limit, modify, or amend this class definition, including the addition of one or more subclasses, in connection with her motion for class certification, or at any other time, based upon, *inter alia*, changing circumstances and/or new facts obtained during discovery.

32. ***Numerosity***: The class members are so numerous that joinder of all members is impracticable. Plaintiff is informed and believes that the proposed Class contain thousands of individuals who have been damaged by Defendants' conduct as alleged herein. The precise number of Class members is unknown to Plaintiff.

33. ***Existence and Predominance of Common Questions of Law and Fact***: This action involves common questions of law and fact, which predominate over any questions affecting individual Class members. These common legal and factual questions include, but are not limited to, the following:

a. Whether, during the Class Period, Defendants used false "market" or "original" price labels and falsely advertised price discounts on their Ralph Lauren branded products they sold in their Polo Factory store and/or retail outlet stores;

b. Whether, during the Class Period, the "original" or "market" prices advertised by Defendants were the prevailing market prices for the respective Ralph Lauren branded products during the three month period preceding the dissemination and/or publication of the advertised former prices;

c. Whether Defendants' alleged conduct constitutes violations of the laws asserted;

d. Whether Defendants engaged in unfair, unlawful and/or fraudulent business practices under the laws asserted;

e. Whether Defendants engaged in false or misleading advertising;

f. Whether Plaintiff and Class members are entitled to damages and/or restitution and the proper measure of that loss; and

g. Whether an injunction is necessary to prevent Defendants from continuing to use false, misleading or illegal price comparison.

34. ***Typicality***: Plaintiff's claims are typical of the claims of the members of the Class because, *inter alia*, all Class members have been deceived (or were likely to be deceived) by Defendants' false and deceptive price advertising scheme, as alleged herein. Plaintiff is advancing the same claims and legal theories on behalf of herself and all members of the class.

35. ***Adequacy***: Plaintiff will fairly and adequately protect the interests of the members of the Class. Plaintiff has retained counsel experienced in complex consumer class action litigation, and Plaintiff intends to prosecute this action vigorously. Plaintiff has no antagonistic or adverse interest to those of the Class.

36. ***Superiority***: The nature of this action and the nature of laws available to Plaintiff and the Class make the use of the class action format a particularly efficient and appropriate procedure to afford relief to her and the class for the wrongs alleged. The damages or other financial detriment suffered by individual Class members is relatively modest compared to the burden and expense that would be entailed by individual litigation of their claims against Defendants. It would thus be virtually impossible for Plaintiff and Class members, on an individual basis, to obtain effective redress for the wrongs done to them. Absent the class action, Class members and the general public would not likely recover, or would not likely have the chance to recover, damages or restitution, and Defendants will be permitted to retain the proceeds of its fraudulent and deceptive misdeeds.

37. All Class members, including Plaintiff, were exposed to one or more of Defendants' misrepresentations or omissions of material fact claiming that former original or "market" advertised prices were in existence. Due to the scope and extent of Defendants' consistent false "discount" price advertising scheme, disseminated in a years-long campaign to California consumers via a number of different platforms – in-store displays, print advertisements, etc. – it can be reasonably inferred that such misrepresentations or omissions of material fact were uniformly made to all members of the Class. In addition, it can be reasonably presumed that all Class members, including Plaintiff, affirmatively acted in response to the representations contained in Defendants' false advertising scheme when purchasing Ralph Lauren branded merchandise at Defendants' Polo Factory store and/or retail outlet stores.

38. Defendants keep extensive computerized records of its customers through, *inter alia*, customer loyalty programs and general marketing programs. Defendants have one or more databases through which a significant majority of Class members may be identified and ascertained, and they maintain contact information, including email and home addresses, through which notice of this action could be disseminated in accordance with due process requirements.

VI. CAUSES OF ACTION

FIRST CAUSE OF ACTION
Violation Unfair Competition Law
Business and Professions Code § 17200 et seq.

39. Plaintiff repeats and re-alleges the allegations contained in every preceding paragraph as if fully set forth herein.

40. The UCL defines unfair business competition to include any "unlawful, unfair or fraudulent" act or practice, as well as any "unfair, deceptive, untrue or misleading" advertising. Cal. Bus. Prof. Code § 17200.

41. The UCL imposes strict liability. Plaintiff need not prove that Defendants intentionally or negligently engaged in unlawful, unfair, or fraudulent business practices – but only that such practices occurred.

42. A business act or practice is "unfair" under the UCL if it offends an established public policy or is immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers, and that unfairness is determined by weighing the reasons, justifications and motives of the practice against the gravity of the harm to the alleged victims.

43. Defendants' actions constitute "unfair" business acts or practices because, as alleged above, Defendants engaged in misleading and deceptive price comparison advertising that represented false original or "market" prices and "discount" prices that were nothing more than fabricated market prices leading to phantom markdowns. Defendants' acts and practices offended an established public policy, and engaged in immoral, unethical, oppressive, and unscrupulous activities that are substantially injurious to consumers.

44. The harm to Plaintiff and Class members outweighs the utility of Defendants' practices. There are and were reasonably available alternatives to further Defendants' legitimate business interests, other than the misleading and deceptive conduct described herein.

45. A business act or practice is "fraudulent" under the UCL if it is likely to deceive members of the consuming public.

46. A business act or practice is "unlawful" under the UCL if it violates any other law or regulation.

47. Defendants' acts and practices alleged above have deceived Plaintiff and are highly likely to deceive members of the consuming public. Plaintiff relied on Defendants' fraudulent and deceptive representations regarding its "market" prices for Ralph Lauren branded products that Defendants sell at their Polo Factory store and/or other retail outlet stores. These misrepresentations played a substantial role in Plaintiff's decision to purchase merchandise at a steep discount, and Plaintiff would not have purchased such merchandise without Defendants' misrepresentations.

48. The FTCA prohibits "unfair or deceptive acts or practices in or affecting commerce" (15 U.S.C. § 45(a)(1)) and prohibits the dissemination of any false advertisements. 15 U.S.C. § 52(a). Under the FTC, false former pricing schemes, similar to the ones implemented by Defendants, are described as deceptive practices that would violate the FTCA:

> (a) One of the most commonly used forms of bargain advertising is to offer a reduction from the advertiser's own former price for an article. If the former price is the actual, bona fide price at which the article was offered to the public on a regular basis for a reasonably substantial period of time, it provides a legitimate basis for the advertising of a price comparison. Where the former price is genuine, the bargain being advertised is a true one. If, on the other hand, the former price being advertised is not bona fide but fictitious – for example, where an artificial, inflated price was established for the purpose of enabling the subsequent offer of a large reduction – the "bargain" being advertised is a false one; the purchaser is not receiving the unusual value he expects. In such a case, the "reduced" price is, in reality, probably just the seller's regular price.
>
> (b) A former price is not necessarily fictitious merely because no sales at the advertised price were made. The advertiser should be especially careful, however, in such a case, that the price is one at which the product was openly and actively offered for sale, for a reasonably substantial period of time, in the recent, regular course of her business, honestly and in good faith – and, of course, not for the purpose of establishing a fictitious higher price on which a deceptive comparison might be based.
>
> 16 C.F.R. § 233.1.

49. California law also expressly prohibits false former pricing schemes. Cal. Bus.

& Prof. Code §17501, entitled "*Value determinations; Former price advertisement,*" states:

> For the purpose of this article the worth or value of any thing advertised is the prevailing market price, wholesale if the offer is at wholesale, retail if the offer is at retail, at the time of publication of such advertisement in the locality wherein the advertisement is published.
>
> **No price shall be advertised as a former price of any advertised thing, unless the alleged former price was the prevailing market price as above defined within three months next immediately preceding the publication of the advertisement** or unless the date when the alleged former price did prevail is clearly, exactly and conspicuously stated in the advertisement. [Emphasis added.]

50. As detailed in Plaintiff's Third Cause of Action below, Cal. Civ. Code § 1770(a)(9), prohibits a business from "[a]dvertising goods or services with intent not to sell them as advertised," and subsection (a)(13) prohibits a business from "[m]aking false or misleading statements of fact concerning reasons for, existence of, or amounts of price reductions."

51. Defendants' practices, as set forth above, have misled Plaintiff, the proposed class, and the general public in the past and will continue to mislead in the future. Consequently, Defendants' practices constitute an unlawful and unfair business practice within the meaning of the UCL.

52. Defendants' violation of the UCL through its unlawful, unfair and fraudulent business practices are ongoing and present a continuing threat that members of the public will be deceived into purchasing products based on price comparisons of arbitrary and inflated original or "market" prices to "sale" prices that created merely phantom markdowns and led to financial damage for consumers, like Plaintiff and the proposed Class.

53. Pursuant to the UCL, Plaintiff is entitled to preliminary and permanent injunctive relief ordering Defendants to cease this unfair competition, as well as disgorgement and restitution to Plaintiff and the Class of all of Defendants' revenues associated with its unfair competition, or such portion of those revenues as the Court may find equitable.

SECOND CAUSE OF ACTION
Violation of the California False Advertising Law,
California Business & Professions Code § 17500, *et seq.*

54. Plaintiff repeats and re-alleges the allegations contained in every preceding paragraph as if fully set forth herein.

55. Cal. Bus. & Prof. Code § 17500 provides that "[i]t is unlawful for any…corporation…with intent…to dispose of…personal property…to induce the public to enter into any obligation relating thereto, to make or disseminate or cause to be made or disseminated…from this state before the public in any state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet, any statement…which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading…." [Emphasis added].

56. The "intent" required by Cal. Bus. & Prof. Code § 17500 is the intent to dispose of property, and not the intent to mislead the public in the disposition of such property.

57. Similarly, this section provides, "no price shall be advertised as a former price of any advertised thing, unless the alleged former prices was the prevailing market price…within three months next immediately preceding the publication of the advertisement or unless the date when the alleged former price did prevail is clearly, exactly, and conspicuously stated in the advertisement." Cal Bus. & Prof. Code § 17501.

58. Defendants' routine of advertising discounted prices from false "market" prices associated with its Ralph Lauren Polo Factory store and other retail outlet products which were not the true prevailing "market" prices of those products and were materially greater than the true prevailing prices was an unfair, untrue and misleading practice. This deceptive marketing practice gave consumers the false impression that the products were regularly sold on the market for a substantially higher price than they actually were, therefore leading to the false impression that the Ralph Lauren branded products were worth more than they actually were.

59. Defendants misled consumers by making untrue and misleading statements and failing to disclose what is required as stated in the Code, as alleged above.

60. As a direct and proximate result of Defendants' misleading and false advertisements Plaintiff and Class members have suffered injury in fact and have lost money. As such, Plaintiff requests that this Court Order Defendants to restore this money to Plaintiff and all Class members, and to enjoin Defendants from continuing these unfair practices in the future. Otherwise, Plaintiff, Class members and the broader general public will be irreparably harmed and/or denied an effective and complete remedy.

THIRD CAUSE OF ACTION
Violation of the Consumers Legal Remedies Act ("CLRA"), California Civil Code § 1750, *et seq.*

61. Plaintiff repeats and re-alleges the allegations contained in every preceding paragraph as if fully set forth herein.

62. This cause of action is brought pursuant to the Consumers Legal Remedies Act (CLRA), California Civil Code § 1750, et seq. and similar laws in other states. Plaintiff and each member of the proposed class are "consumers" as defined by California Civil Code § 1761(d). Defendants' sale of Ralph Lauren branded products at its Polo Factory store and/or other retail outlet stores to Plaintiff and the Class were "transactions" within the meaning of California Civil Code § 1761(e). The products purchased by Plaintiff and the Class are "goods" within the meaning of California Civil Code § 1761(a).

63. Defendants violated and continues to violate the CLRA by engaging in the following practices proscribed by California Civil Code § 1770(a) in transactions with Plaintiff and the Class which were intended to result in, and did result in, the sale of Ralph Lauren branded products:

- **a.** Advertising goods or services with intent not to sell them as advertised;
- **b.** Making false or misleading statements of fact concerning reasons for, existence of, or amounts of price reductions.

64. Pursuant to § 1782(a) of the CLRA, on July 15, 2016, Plaintiff's counsel notified Defendants in writing by certified mail of the particular violations of §1770 of the CLRA and demanded that Defendants rectify the problems associated with the actions detailed above and give notice to all affected consumers of Defendants' intent to act.

65. Defendants failed to respond appropriately to Plaintiff's letter nor did they agree to rectify the problems associated with the actions detailed above and give notice to all affected consumers within 30 days of the date of written notice, as proscribed by § 1782. Therefore, Plaintiff further seeks claims for actual, punitive and statutory damages, as appropriate against Defendants.

FOURTH CAUSE OF ACTION

Violations of the Consumer Protection Laws on Behalf of Classes in States with Similar Laws

66. Plaintiff repeats and re-alleges the allegations contained in every preceding paragraph as is fully set forth herein.

67. Plaintiff brings this Count individually under the laws of California and on behalf of all other persons who have purchased merchandise in states having similar laws regarding consumer fraud and deceptive trade practices.

68. Plaintiff and a majority of the other members of the Classes are consumers, purchasers, or other persons entitled to the protection of the consumer protection laws of the state in which they purchased merchandise from Defendant.

69. The consumer protection laws of the states in which Plaintiff and a majority of the other members of the Classes purchased Defendant's merchandise declare that unfair or deceptive acts or practices, in the conduct of trade or commerce, are unlawful.

70. Forty states and the District of Columbia have enacted statutes designed to protect consumers against unfair, deceptive, fraudulent, and unconscionable trade, business practices, and false advertising that allow consumers to bring private and/or class actions. The relevant statutes are found at:

a. Alabama Deceptive Trade Practices Act, Ala. Code § 8-19-1, et seq.;

b. Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-101, et seq.;

c. California Consumer Legal Remedies Act, Cal. Civ. Code § 1750, et seq., and California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq.;

d. Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-101, et seq.;

e. Connecticut Unfair Trade Practices Act, Conn. Gen. Stat. § 42-110a, et seq.;

f. Delaware Deceptive Trade Practices Act, Del. Code tit. 6 § 2511, et seq.;

g. Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, et seq.;

h. Georgia Fair Business Practices Act, Ga. Code Ann. § 10-1-390, et seq.;

i. Hawaii Unfair and Deceptive Practices Act, Hawaii Revised Statutes § 480-1, et seq., and Hawaii Uniform Deceptive Trade Practices Act, Haw. Rev. Stat. § 481A-1, et seq.;

j. Illinois Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. Stat. Ann. 505/1, et seq.;

k. Kansas Consumer Protection Act, Kan. Stat. Ann § 50 626, et seq.;

l. Kentucky Consumer Protection Act, Ky. Rev. Stat. Ann. § 367.110, et seq., and the Kentucky Unfair Trade Practices Act, Ky. Rev. Stat. Ann. § 365.020, et seq.;

m. Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. Ann. § 51:1401, et seq.;

n. Maine Unfair Trade Practices Act, Me. Rev. Stat. tit. 5 § 205A, et seq., and Maine Uniform Deceptive Trade Practices Act, Me. Rev. Stat. Ann. Tit. 10, § 1211, et seq.;

o. Massachusetts Unfair and Deceptive Practices Act, Mass. Gen. Laws ch. 93A;

p. Michigan Consumer Protection Act, Mich. Comp. Laws § 445.901, et seq.;

q. Minnesota Prevention of Consumer Fraud Act, Minn. Stat. Ann. § 325F.68 et seq., and Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. § 325D.43, et seq.;

r. Mississippi Consumer Protection Act, Miss. Code Ann. §§ 75-24-1, et seq.;

s. Missouri Merchandising Practices Act, Mo. Rev. Stat. § 407.010, et seq.;

t. Nebraska Consumer Protection Act, Neb. Rev. Stat. § 59-1601, et seq., and the Nebraska Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301, et seq.;

u. Nevada Trade Regulation and Practices Act, Nev. Rev. Stat. § 598.0903, et seq.;

v. New Hampshire Consumer Protection Act, N.H. Rev. Stat. § 358-A:1, et seq.;

w. New Jersey Consumer Fraud Act, N.J. Stat. Ann. § 56:8 1, et seq.;

x. New Mexico Unfair Practices Act, N.M. Stat. Ann. § 57 12 1, et seq.;

y. New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law § 349, et seq.;

z. Ohio Consumer Sales Practices Act, Ohio Rev. Code Ann. § 1345.02 and 1345.03; Ohio Admin. Code § 109:4-3-02, 109:4-3-03, and 109:4-3-10;

aa. Oklahoma Consumer Protection Act, Okla. Stat. tit. 15 § 751, et seq.;

bb. Oregon Unfair Trade Practices Act, Ore. Rev. Stat. § 646.608(e) & (g);

cc. South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10, et seq.;

dd. South Dakota's Deceptive Trade Practices and Consumer Protection Law, S.D. Codified Laws §§ 37 24 1, et seq.;

ee. Tennessee Consumer Protection Act, Tenn. Code Ann. § 47-18-101, et seq.;

ff. Washington Consumer Fraud Act, Wash. Rev. Code § 19.86.010, et seq.; and

gg. Wisconsin Deceptive Trade Practices Act, Wis. Stat. § 100.18, et seq.

71. Defendant's merchandise constitutes products to which these consumer protection laws apply.

72. In the conduct of trade or commerce regarding the pricing, advertising, marketing, and sale of its merchandise, Defendant engaged in one or more unfair or deceptive acts or practices, including but not limited to, uniformly representing to Plaintiff and each member of the Classes by means of the pricing and advertising of its merchandise that it was, among other things, being offered at a discount, as described herein.

73. Defendant's representations and omissions were false, untrue, misleading, deceptive, and/or likely to deceive.

74. Defendant knew, or should have known, that its representations and omissions were false, untrue misleading, deceptive, and/or likely to deceive.

75. Defendant used or employed such deceptive and unlawful acts or practices with the intent that Plaintiff and members of the Classes rely thereon.

76. Plaintiff and the other members of the Classes did so rely.

77. Plaintiff and the other members of the Classes purchased merchandise sold by Defendant which misrepresented the magnitude of the price discounts offered for the merchandise.

78. Plaintiff and the other members of the Classes would not have purchased such merchandise but for Defendant's deceptive and unlawful acts.

79. As a result of Defendant's conduct, Plaintiff and the other members of the Classes sustained damages in amounts to be proven at trial.

80. Defendants' conduct showed complete indifference to, or conscious disregard for, the rights of others such that an award of punitive and/or statutory damages is appropriate under the consumer protection laws of those states that permit such damages to be sought and recovered.

VII. PRAYER FOR RELIEF

81. Wherefore, Plaintiff, on behalf of herself and on behalf of the other members of the Class, requests that this Court award relief against Defendants as follows:

- **a.** An order certifying the class and designating COURTNEY DENNIS as the Class Representative and her counsel as Class Counsel;
- **b.** Awarding Plaintiff and the proposed Class members damages;
- **c.** Awarding restitution and disgorgement of all profits and unjust enrichment that Defendants obtained from Plaintiff and the Class members as a result of its unlawful, unfair and fraudulent business practices described herein;
- **d.** Awarding declaratory and injunctive relief as permitted by law or equity, including: enjoining Defendants from continuing the unlawful practices as set forth herein, and directing Defendants to identify, with

Court supervision, victims of the misconduct and compensate the victims with the requisite funds;

e. Awarding actual, punitive and statutory damages as permitted under the California Consumer Legal Remedies Act;

f. Order Defendants to engage in a corrective advertising campaign;

g. Awarding attorneys' fees and costs; and

h. For such other and further relief as the Court may deem necessary or appropriate.

VIII. DEMAND FOR JURY TRIAL

82. Plaintiff hereby demands a jury trial for all of the claims so triable.

Dated: July 15, 2016

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CERTIFICATE OF SERVICE

I hereby certify that on July 15, 2016, I caused the foregoing to be electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the email addresses denoted on the Electronic Mail Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on July 15, 2016.

/s/ Todd D. Carpenter